



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-18

Legistar #: 20140598

Board of Zoning Appeals Hearing: Monday, June 23, 2014 – 6:00 p.m.

Property Owner: Michael Troy Foushee
566 Church Street
Marietta, GA 30060

Address: 566 Church Street

Land Lot: 10870 District: 16 Parcels: 0230

Council Ward: 4B Existing Zoning: R-3 (Single Family Residential 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the required side setback for new garage from 10 ft. to 1.5 ft., which will maintain the current side yard setback. [*§ 708.03 (F.1)*]
2. Variance to reduce the required rear setback for new garage from 22 ft. to 5 ft. [*§ 708.03 (F.4)*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Current garage near the right side property line



View from driveway of current garage.



View of backyard next to current garage

Recommended Action:

Denial. The applicant and property owner, Michael Troy Foushee, is requesting a variance to reduce the rear setback requirements for a detached garage from 10 ft. to 5 ft. and maintain the existing side setback of 1.5 ft. The property is located at 566 Church Street. The subject property sits on 0.207 acres and is zoned R-3 (Single-Family Residential), as are the abutting properties to the south and east of the property. The property to the north of this property is zoned OI (Office Institutional).

Mr. Foushee wishes to construct a new two car garage, which would replace the current single car garage, and he has indicated that the current single car garage is in a state of disrepair, and is not “safe or conducive for vehicles or people”. The new garage would accommodate two cars and would have storage space on the second floor; therefore the height of the garage would be approximately 22 ft. Mr. Foushee further states that, given the current configuration of the backyard, there is no other place to locate the new garage. Mr. and Mrs. Foushee are expecting a baby in June, and would like to reserve the remaining yard space for play area. The style and architecture of the new garage would be similar to that of the existing house.

The request, if approved, would allow the proposed two car garage to remain in approximately the same location in relation to the side property line - with a setback of 1.5 ft. Should the request to reduce the side yard setback to 1.6 feet be considered, it would be important to ensure that run-off from the roof would not impact the adjacent property.

Along the rear property line, Mr. Foushee is proposing to reduce the setback for the new garage to 5 ft. The current garage is set back approximately 7 ft. from the rear property line. Current zoning regulations require the setback for a detached garage (less than 15 ft. in height) must be at least 10 ft. from the rear property line. However, Mr. Foushee is proposing to increase the size of the garage to accommodate 2 cars, and to increase the height of the garage to provide storage area on the second floor. The height of the building will be increased to approximately 22 ft., the code requires the rear setback to be equal to the building height. Therefore, the variance request is to reduce the rear setback from 22 ft. to 5 ft. due to the height of the building.

The Marietta Fire Marshall has determined that the structure will be required to comply with all state and local codes, including those related to “sprinkler system, fire alarm system, and protection of hazards.”

The property is located in an older part of the city where it is not uncommon to find that many of the homes and structures do not comply with more contemporary and spacious setback requirements. In such areas, there is an established precedent for approving residential side setback variances, both for main structure and detached accessory structures. However, in most cases, adjustments have been made to reduce the mass of the proposed structures by building open carports or porte cocheres. Further, there does not appear to be any precedent to allow such a large enclosed garage so close to the rear property line on such a small lot. The impact of such a large structure so close to the property line will be significant to the adjacent neighbor.

Case #	Date	Address	Variance
V2003-04	2/24/03	185 Nancy Street	Variance to reduce the side yard setback from 10 feet to 2 feet. (<i>Attached garage</i>)
V2009-10	5/18/09	176 Stewart Ave	Variance to reduce the side yard setback from 10 feet to 3.9 feet. (<i>Main house</i>)
V2009-24	11/30/09	90 Stewart Ave	Variance to reduce side setback from 10 ft. to approximately 3 ft. (<i>Main house</i>) Variance to reduce side building setback from 10 ft. to .6 ft. (<i>Main house</i>)
V2010-16	7/26/10	257 Hunt St	Variance to reduce the rear and side setbacks for an accessory structure from 10' to 0'. (<i>Shed</i>)
V2013-04	1/28/13	548 Church St	Variance to reduce the major side setback from 25 ft. to 10 in. (<i>Attached garage</i>)

The applicant has indicated that he has contacted all of his adjoining neighbors to address any questions or concerns that could be raised, but has not been able to obtain any letters of support from them at this time.

The applicant is requesting to build a much larger garage – both in area and in height – that will be as close or closer to the property lines as the existing small garage. This will create a significant impact on neighboring property owners, and as such, ***Staff recommends denial of the requested variances.***